

111TH CONGRESS  
1ST SESSION

# S. 491

To amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2009

Mr. WEBB (for himself, Mr. BURR, Ms. COLLINS, Mr. WARNER, Mr. DURBIN, Mr. CARDIN, Mr. ROCKEFELLER, Mr. AKAKA, Mr. DODD, Mr. BUNNING, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal and Military  
5 Retiree Health Care Equity Act”.

1 **SEC. 2. PRETAX PAYMENT OF HEALTH INSURANCE PRE-**  
 2 **MIUMS BY FEDERAL CIVILIAN AND MILITARY**  
 3 **RETIREEES.**

4 (a) IN GENERAL.—Subsection (g) of section 125 of  
 5 the Internal Revenue Code of 1986 (relating to cafeteria  
 6 plans) is amended by adding at the end the following new  
 7 paragraph:

8 “(5) HEALTH INSURANCE PREMIUMS OF FED-  
 9 ERAL CIVILIAN AND MILITARY RETIREEES.—

10 “(A) FEHBP PREMIUMS.—Nothing in this  
 11 section shall prevent the benefits of this section  
 12 from being allowed to an annuitant, as defined  
 13 in paragraph (3) of section 8901, title 5,  
 14 United States Code, with respect to a choice be-  
 15 tween the annuity or compensation referred to  
 16 in such paragraph and benefits under the  
 17 health benefits program established by chapter  
 18 89 of such title 5.

19 “(B) TRICARE PREMIUMS.—Nothing in  
 20 this section shall prevent the benefits of this  
 21 section from being allowed to an individual re-  
 22 ceiving retired or retainer pay by reason of  
 23 being a member or former member of the uni-  
 24 formed services of the United States with re-  
 25 spect to a choice between such pay and benefits

1 under the health benefits programs established  
 2 by chapter 55 of title 10, United States Code.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
 4 this section shall apply to taxable years beginning after  
 5 the date of the enactment of this Act.

6 **SEC. 3. DEDUCTION FOR TRICARE SUPPLEMENTAL PRE-**  
 7 **MIUMS.**

8 (a) IN GENERAL.—Part VII of subchapter B of chap-  
 9 ter 1 of the Internal Revenue Code of 1986 (relating to  
 10 additional itemized deductions for individuals) is amended  
 11 by redesignating section 224 as section 225 and by insert-  
 12 ing after section 223 the following new section:

13 **“SEC. 224. TRICARE SUPPLEMENTAL PREMIUMS OR EN-**  
 14 **ROLLMENT FEES.**

15 “(a) ALLOWANCE OF DEDUCTION.—In the case of an  
 16 individual, there shall be allowed as a deduction the  
 17 amounts paid during the taxable year by the taxpayer for  
 18 insurance purchased as supplemental coverage to the  
 19 health benefits programs established by chapter 55 of title  
 20 10, United States Code, for the taxpayer and the tax-  
 21 payer’s spouse and dependents.

22 “(b) COORDINATION WITH MEDICAL DEDUCTION.—  
 23 Any amount allowed as a deduction under subsection (a)  
 24 shall not be taken into account in computing the amount

1 allowable to the taxpayer as a deduction under section  
2 213(a).”.

3 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL  
4 ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
5 of section 62 of the Internal Revenue Code of 1986 (defining  
6 adjusted gross income) is amended by inserting after  
7 paragraph (21) the following new paragraph:

8 “(22) TRICARE SUPPLEMENTAL PREMIUMS  
9 OR ENROLLMENT FEES.—The deduction allowed by  
10 section 224.”.

11 (c) CLERICAL AMENDMENT.—The table of sections  
12 for part VII of subchapter B of chapter 1 of the Internal  
13 Revenue Code of 1986 is amended by striking the last  
14 item and inserting the following new items:

“Sec. 224. TRICARE supplemental premiums or enrollment fees.

“Sec. 225. Cross reference.”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years beginning after  
17 the date of the enactment of this Act.

#### 18 **SEC. 4. IMPLEMENTATION.**

19 (a) FEHBP PREMIUM CONVERSION OPTION FOR  
20 FEDERAL CIVILIAN RETIREES.—The Director of the Office  
21 of Personnel Management shall take such actions as  
22 the Director considers necessary so that the option made  
23 possible by section 125(g)(5)(A) of the Internal Revenue  
24 Code of 1986 (as added by section 2) shall be offered be-

1   ginning with the first open enrollment period, afforded  
2   under section 8905(g)(1) of title 5, United States Code,  
3   which begins not less than 90 days after the date of the  
4   enactment of this Act.

5       (b) TRICARE PREMIUM CONVERSION OPTION FOR  
6   MILITARY RETIREES.—The Secretary of Defense, after  
7   consulting with the other administering Secretaries (as  
8   specified in section 1073 of title 10, United States Code),  
9   shall take such actions as the Secretary considers nec-  
10   essary so that the option made possible by section  
11   125(g)(5)(B) of the Internal Revenue Code of 1986 (as  
12   so added) shall be offered beginning with the first open  
13   enrollment period afforded under health benefits programs  
14   established under chapter 55 of such title, which begins  
15   not less than 90 days after the date of the enactment of  
16   this Act.

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